

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ROBERT A. HANER,

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY
and GEORGE E. MOYER,

Respondents.

PCHB No. 78-3

ORDER DISMISSING APPEAL

This appeal, which relates to certain rights for withdrawal of ground water, came before the Pollution Control Hearings Board, Dave J. Mooney, Chairman, and Chris Smith, member, convened at Spokane, Washington, on May 9, 1978. Hearing examiner William A. Harrison presided. Respondent elected a formal hearing pursuant to RCW 43.21B.230.

Appellant appeared by and through its attorney Clifton W. Collins. Respondent appeared by and through its attorney, Robert E. Mack, Assistant Attorney General. Spokane reporter Salley

1 Ann Littell recorded the proceedings.

2 Respondent moved to dismiss this appeal on grounds that the
3 Hearings Board lacks jurisdiction because 1) appellant has not
4 made timely filing of his Notice of Appeal and 2) the instrument
5 appealed from, a letter, was not signed by an official authorized
6 to make an appealable decision or order, WAC 173-06-030 and, in
7 any event, is not an appealable decision or order.

8 Having read the Motion and supporting affidavit, having read
9 and heard argument of counsel, having considered the exhibits and
10 being fully advised, the Hearings Board concludes:

11 1. That appellant has not made timely filing of his Notice
12 of Appeal under RCW 43.21B.120 and WAC 371-08-080. See U.S. Navy
13 v. DOE, PCKB No. 77-173 (1978) and cases cited therein.

14 2. That the letter appealed from is not signed by a person
15 authorized to make an appealable decision or order under
16 WAC 173-06-030 of the Department of Ecology.

17 3. That the letter appealed from does not constitute an
18 appealable decision or order within the meaning of RCW 43.21E.110
19 and that therefore the Hearings Board has no jurisdiction over
20 this appeal which must be dismissed.

21 Because of this, we cannot reach the merits of this appeal
22 which would be the first point at which we could, if appropriate,
23 grant the relief which appellant requests.

24 NOW THEREFORE, the Pollution Control Hearings Board enters
25 the following
26

27 ORDER DISMISSING APPEAL

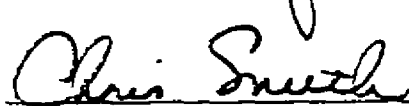
ORDER

The appeal in this matter is stricken and dismissed.

DONE at Lacey, Washington this 11th day of May, 1978.

POLLUTION CONTROL HEARINGS BOARD


DAVE J. MOONEY, Chairman


CHRIS SMITH, Member

ORDER DISMISSING APPEAL

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CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I mailed, postage prepaid, copies of the foregoing document on the 11th day of May, 1978, to each of the following-named parties at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Robert E. Mack
Assistant Attorney General
Department of Ecology
St. Martin's College
Olympia, Washington 98504

Mr. George E. Moyer
Route 2, Box 767 DD
Quillicene, Washington 98376

Mr. Clifton W. Collins
Collins and Hansen
P. O. Box 8
Ephrata, Washington 98823

Mr. Lloyd Taylor
Department of Ecology
St. Martin's College
Olympia, Washington 98504

Mr. Robert A. Haner
Wilkersham Station
Sedro Woolley, Washington 98284



LARENE BARLIN
POLLUTION CONTROL HEARINGS BOARD